
**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

SERGEI NIKOSHCHENKOV
A209 187 895
Petitioner,

v.

U. S. ATTORNEY GENERAL,
Respondent.

} **Consolidated Petitions for Review**
17-13231; 17-15732; 19-10050

PETITIONER’S MOTION TO DISMISS PETITIONS FOR REVIEW

Nov 18, 2019

Victor Ifeanyi Okeke
Victor Ifeanyi Okeke, LLC
2470 Windy Hill Road Suite 249
Marietta, GA 30067
(678) 903-6400

Attorney for Petitioner

CERTIFICATE OF INTERESTED PERSONS

I hereby certify that the following persons may have an interest in the outcome of this case:

1. Bagley, Jeffrey, S., Chief Judge Forsyth County Superior Court, Forsyth County, GA;
2. Baird, Michael, Immigration Judge, Atlanta, GA;
3. Barr, William, Respondent, Attorney General of the United States, U.S. Department of Justice, Washington, D.C.
4. Freedman, Aaron, Petitioner's Attorney in State Criminal Proceedings, Atlanta, GA;
5. Gallagher, Sean, Field Office Director, Office of Detention & Removal, DHS/ICE, Atlanta, GA;
6. Grant, Edward R., Board of Immigration Appeals;
7. McMahon, Michael, Joseph, Petitioner's United States Citizen Spouse, Key West, FL;
8. Murcia, Liza, Attorney for Respondent, OIL, Civil Division, U.S. Department of Justice, Washington, D.C.;

9. Nikoshchenkov, Sergei, Petitioner, Etowah County Detention Center,
Gadsden. AL;
10. Okeke, Victor, Ifeanyi, Attorney for Petitioner, Marietta, GA;
11. Owens, Alfie, Chief Counsel, DHS/ICE, Atlanta, GA;
12. Pauley, Roger, Board of Immigration Appeals.
13. Payne, Anthony C., Attorney for Respondent, Assistant Director, OIL, Civil
Division, U.S. Department of Justice, Washington, D.C.;
14. Reba, Stephen M., Petitioner's Attorney for Post-Conviction Relief,
Avondale Estates, GA;
15. Sirianni, Jr., Robert L., Petitioner's Attorney for Habeas Corpus, Winter
Park, FL;
16. Stempel, Sandra A., Petitioner's Attorney for I-130 NOID Response,
Burlington, VT.

Dated Nov 18, 2019

/s/Victor Ifeanyi Okeke
Victor Ifeanyi Okeke, LLC
2470 Windy Hill Rd Ste 249
Marietta, GA 30067
(678) 903-6400

INTRODUCTION

Petitions for Review Nos. 17-13231; 17-15732 and 19-10050 are consolidated appeals before this Court between the same parties; *Sergei Nikoshchenkov v. U.S. Atty. Gen.* The subject matter of all three appeals emanated from petitioner's final order of removal and denials of two motions to reopen.

On Sep 20, 2019 petitioner filed a third motion to reopen before the BIA.

On Oct 21, 2019, the Court granted respondent's request to hold proceedings in abeyance pending the BIA's decision on the motion to reopen.

On Nov 12, 2019, the BIA reopened petitioner's removal proceedings and remanded same to the Immigration Court. Copy of BIA's order attached.

As a result of the BIA's order reopening and remanding petitioner's removal proceedings, there is no longer a final order of removal for the Court to review; INA §242(a)(1); See *Lopez-Ruiz v. Ashcroft*, 298 F.3d 886 (9th Cir. 2002) hence this motion.

CONCLUSION

WHEREFORE, based upon the above, petitioner, through undersigned counsel requests that the three consolidated Petitions for Review be dismissed due to the absence of jurisdiction.

Nov 18, 2019

s/Victor Ifeanyi Okeke
Victor Ifeanyi Okeke LLC
2470 Windy Hill Road Suite 249
Marietta, GA 30067
(678) 903-6400

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the type-volume limitation set forth in FRAP 32(g)(1). This motion contains 194 words excluding the cover page.

CERTIFICATE OF TYPE AND SIZE

The size and style of type used in the text of this motion is 14-point Times New Roman.

s/Victor Ifeanyi Okeke
Victor Ifeanyi Okeke, LLC
2470 Windy Hill Road Suite 249
Marietta, GA 30067
(678) 903-6400

CERTIFICATE OF SERVICE

I certify that on Nov 18, 2019, I served a copy of this Motion to Dismiss the Petitions for Review on respondent's counsel by filing the same with the Court's ECF system.

/s/Victor Ifeanyi Okeke
Attorney for the Petitioner
2470 Windy Hill Road, Suite 249
Marietta, GA 30067



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Okeke, Ifeanyi Victor
Victor Ifeanyi Okeke, LLC
2470 Windy Hill Road
Suite 249
Marietta, GA 30067

DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr., SW, Ste 332
Atlanta, GA 30303

Name: NIKOSHCHENKOV, SERGEI

A 209-187-895

Date of this notice: 11/12/2019

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Couch, Stuart V.

Humadyi

Userteam: Docket

Falls Church, Virginia 22041

File: A209-187-895 – Atlanta, GA

Date:

NOV 12 2019

In re: Sergei NIKOSHCHENKOV

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Ifeanyi Victor Okeke, Esquire

ON BEHALF OF DHS: Daniel J. Wright
Assistant Chief Counsel

APPLICATION: Reopening; remand

ORDER:

On September 20, 2019, the respondent filed a motion to reopen proceedings for consideration of his eligibility for relief from removal. The Department of Homeland Security ("DHS") filed a response in opposition to the respondent's motion to reopen. However, on November 1, 2019, the DHS filed a motion withdrawing its opposition to the respondent's motion to reopen and indicating that it also seeks reopening to file additional allegations and charges of removability. Accordingly, the motion is granted, the proceedings are reopened, and the record is remanded for further proceedings.



FOR THE BOARD